

IOWA PUBLIC INFORMATION BOARD[497]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby gives Notice of Intended Action to amend Chapter 1, “Organization and General Administration,” Iowa Administrative Code.

These amendments are necessary to reflect the Board’s current procedures on issuing advisory opinions.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 16, 2015, by contacting Charlie Smithson, Executive Director, Iowa Public Information Board, Third Floor, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by e-mail to Charlie.Smithson@iowa.gov.

The proposed amendments do not provide for a waiver as no obligation is being imposed on the public.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 23.6.

The following amendments are proposed.

ITEM 1. Amend rule 497—1.2(84GA,ch1115) as follows:

497—1.2(~~84GA,ch1115~~ 23) Requirements for requesting board advisory opinions.

1.2(1) No change.

1.2(2) *Who may request an advisory opinion.* Any person may request a board advisory opinion construing or applying Iowa Code chapters 21, and 22, and 23. An authorized agent may seek an opinion on behalf of any person. The board will not issue an opinion to an unauthorized third party. The board may on its own motion issue opinions without receiving a formal request. The board may issue declaratory orders with the force of law pursuant to Iowa Code section 17A.9.

1.2(3) No change.

This rule is intended to implement ~~2012 Iowa Acts, chapter 1115, section 9(3)~~ Iowa Code section 23.6.

ITEM 2. Amend rule 497—1.3(84GA,ch1115) as follows:

497—1.3(~~84GA,ch1115~~ 23) Processing of advisory opinion requests.

1.3(1) No change.

1.3(2) After receiving an opinion request, the board’s executive director shall prepare a draft opinion for board review. If the same or similar issue has been addressed in an opinion of a court, or in an attorney general’s opinion, or in another prior advisory opinion, the executive director may respond to the requester by sending a copy of the prior opinion. Upon an affirmative vote of at least five members, the executive director shall issue a board advisory opinion on behalf of the board. ~~The executive director may also cause an opinion to be issued on a routine matter on behalf of the board and shall provide notice to the board in writing of the opinion given.~~ Advice contained in a board opinion rendered to a government official or a lawful custodian of a public record, if followed, constitutes a defense for the government official or lawful custodian before the board to a subsequent complaint that is based on the same facts and circumstances. Board staff may also provide written advice on routine matters. However, such advice is not an advisory opinion of the board.

1.3(3) to 1.3(5) No change.

1.3(6) On an annual basis, the board shall review the advisory opinions issued for that year and determine which opinions should be adopted into rule pursuant to the procedures in Iowa Code chapter 17A.

This rule is intended to implement Iowa Code section 23.6.